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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

\* \* \*

DAVID VAN DUKE,

Petitioner,

v.

DWIGHT NEVEN, et al.,

Respondents.

Case No. 2:13-cv-00688-APG-PAL

**ORDER**

This is a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 filed by a Nevada state prisoner. On November 13, 2017, the Court entered an order finding that some of the petitioner's claims in this action remained unexhausted and directing petitioner to file either a motion to dismiss the unexhausted claims and proceed on only the exhausted claims or a motion to dismiss the entire petition without prejudice so that he could return to state court. On December 5, 2017, petitioner filed a motion seeking dismissal of his unexhausted claims. Respondents have not opposed, and the time for doing so has expired.

Good cause appearing, IT IS THEREFORE ORDERED that petitioner's motion to dismiss the unexhausted claims (ECF No. 42) is GRANTED.

IT IS FURTHER ORDERED that respondents shall file an answer to all remaining claims in the petition within forty-five (45) days of the date of this order. In filing the answer, respondents must comply with the requirements of Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts.

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IT FURTHER IS ORDERED that petitioner shall have forty-five (45) days from service of the answer within which to file a reply.

Dated: January 9, 2018.

  
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ANDREW P. GORDON  
UNITED STATES DISTRICT JUDGE